

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Benoist SEBIRE et al.
Application No. : 09/937,949
Confirmation No. : 8795
Filed : August 5, 2002
Examiner : Salman Ahmed
Group Art Unit : 2616
Title : COMMUNICATIONS SYSTEM

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

May 7, 2007

RESPONSE TO OFFICE ACTION

Sir:

Applicants acknowledge the Office Action dated November 7, 2006, and the Advisory Action dated March 19, 2007. The Office Action repeats the rejection that the claims are obvious on the grounds that one of ordinary skill in the art would have been motivated by the Tran patent (U.S. Patent No. 5,517,504) to selectively modify the Dent patent (U.S. Patent No. 6,084,865) such that the resulting combination would read on the claimed invention.

Applicants again submit that the Dent patent is directed towards circuit switched communications, and the Tran patent is directed towards packet switched communications. Applicants again submit that one of ordinary skill in the art would not disregard the differences between circuit switched and packet switched connections and implement a communication system

having modes of operation in which a combination of full rate and part rate channels are allocated to circuit switched and packet switched communications as recited in claims 43 and 75.

Claims 43 and 75 recite a combination of half-rate channels for circuit-switched and packet-switched communications. As explained previously, this combination of channels allows the potential efficiency gains from using half-rate channels to be fully realized. Neither one of the two applied patents recognizes or addresses the problem that the potential efficiency gains are not fully realized because of a mismatch in the number of circuit switched connections requesting a half rate channel at one time. The Office Action states that the claims "do not cite limitations related to the expected efficiency gains not being fully realized because of a mismatch in the number of circuit-switched connections requesting a channel at any one time". However, claims 43 and 75 do indeed contain relevant limitations relating to realizing the efficiency gains. Specifically, the claims recite the solution presented by the claimed invention to solve the problem. The claims do not recite limitations related to the problem recognized and addressed by the inventors, as the problem does not need to be included in the claims for them to be distinguished over the prior art.

Again, the obviousness rejection fails to set forth a convincing rationale for making the proposed combination of references so as to arrive at the claimed invention. While applicants have identified a problem that they recognized and addressed by the solution of the claimed invention, the applied patents provide no such reason. The rejection points out that the Tran patent teaches some of the general advantages of packet switched communications. But such teaching merely suggests using packet switched communications instead of circuit switched communications.

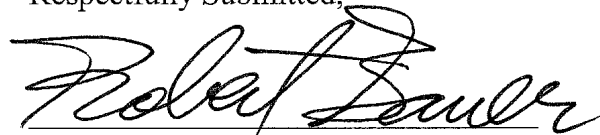
Furthermore, each of the independent claims distinguishes over the applied patents by requiring a half-rate data channel for packet-switched communications. The Office Action asserts that "the present claim language is broad and in view of the broadest reasonable interpretation of the

claim language the cited reference to teach the claimed communications". (see paragraph bridging pages 17 and 18). However, there is no interpretation provided in the rejection. Nor does the rejection identify where either patent discloses a half-rate data channel for packet-switched communications.

Applicants submit that neither one of the applied patents discloses half-rate channels for packet-switched communication, which is a feature included in each of the independent claims. Under any reasonable interpretation of this claim language, it is not correct for the term "a half-rate channel for packet switched communications" to be construed so broadly so as to cover half-rate channels that are not for packet-switched communications, and half-rate channels are the only two types of channels described in the two patents. Since neither one of the applied patents discloses half-rate channels for packet-switched communications, it is simply not true to say that the claim language can be construed so broadly that all of the claimed limitations are taught by the applied patents.

Date: May 7, 2007

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Robert Bauer", written over a horizontal line.

Robert Bauer, Reg. No. 34,487

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